

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3394 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and
MR.JUSTICE A.M.KAPADIA

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

STATE OF SAURASHTRA

Versus

DK ENTERPRISE

Appearance:

MR SANDEEP N BHATT for Appellant
MR BD KARIA for Respondent No. 1, 4
NOTICE SERVED for Respondent No. 3

CORAM : MR.JUSTICE J.N.BHATT and
MR.JUSTICE A.M.KAPADIA

Date of decision: 04/05/99

ORAL JUDGEMENT (Per J.N. Bhatt, J.):-

Admit. Mr. B.D. Karia appears and waives service of notice. Upon the joint request of both the parties and in the peculiar facts and circumstances of the case, the appeal is taken up for final hearing, today.

Whether the rate of interest at 6% awarded by the trial Court on the decretal amount is permissible and/or justified? is the sole question raised before us in this appeal under section 96 of the Code of Civil Procedure, against the judgment and decree in favour of the appellant, State Bank of Saurashtra ('SBS') and against the respondents/ original defendants, in Special Civil Suit No. 133 of 1994, by the learned 2nd Joint Civil Judge (Senior Division), Junagadh, on 16.1.1997, against the claim of interest at the rate of 15.5% on the principal amount.

It would not detain us, even for a minute, in reversing the finding of the trial Court on the sole issue as aforesaid in view of the celebrated proposition of law and in the light of the amended provisions of Section 21-A of the Banking Regulations Act, 1949, by virtue of which, notwithstanding anything contained in any law, it is not open for the Court to examine and reopen the justification or the merits of the rate of interest. We are also reinforced in our above view by the decision of the Honourable Apex Court in the case of State Bank of India v. Yasangi Venkateswara Rao, AIR 1999 SC 896.

In fact, as per the contract, the rate of interest was fixed and the plaintiff was entitled to interest at the rate of 31%. However, the appellant/original plaintiff bank claimed interest at the rate of 15.5% only by virtue of the contract at Ex.31, as the rate of interest then prevalent was 15.5%.

In view of the above facts, the impugned decree is required to be modified. Instead of 6% interest the appellant/original plaintiff bank is entitled to claim interest at the rate of 15.5%. The appeal is, therefore, required to be allowed to that extent.

In the result, the impugned judgment and decree is, partly, modified. The rate of interest awarded at the 6% by the trial Court is quashed and set aside and is substituted by 15.5% from the date of filing of the suit till the date of payment. Impugned decree, accordingly, shall stand modified. Parties are left to bear their own costs.

(karan)